

Instructions For The Preparation Of The Alabama Business Privilege Tax, Corporate Shares Tax Return and Annual Report

2000

The Alabama Business Privilege and Corporate Shares Tax Act of 1999 (Act 99-665) and
tax forms may be viewed and downloaded at the Department of Revenue Web site at www.ador.state.al.us.

PLEASE NOTE: Throughout these instructions and the tax return there are several references to Title 40 Chapter 14A (Act 99-665 and Act 2000-705) which is the Business Privilege and Corporate Shares Tax law. The provisions of Act 2000-705, relative to tax year 2000, are retroactive to January 1, 2000. You can access these acts through the Department's web site www.ador.state.al.us under the Business Privilege Tax Section. There are also references to other chapters of Title 40, other Titles of the Code of Alabama and the Internal revenue Code (26 U.S.C.). You can access the entire *Code of Alabama 1975* through the Alabama Legislature's web site, www.legislature.state.al.us, by clicking on the legislation section. The Internal Revenue Code can be accessed by clicking on the IRS icon located at the bottom of the Revenue Department's web site home page.

I. General Instructions

Every corporation, limited liability entity (LLE), business trust, disregarded entity and real estate investment trust (REIT) that is doing business in Alabama or is registered/qualified to do business in Alabama on January 1, 2000, is required to file an Alabama Business Privilege Tax and Corporate Shares Tax Return and Annual Report. The due date for filing the return is March 15th for corporations and April 15th for limited liability entities. The return is due as long as the entity legally exists in Alabama, even if the entity is inactive. If additional time is needed, an extension for no more than six months may be requested by completing an Extension Request for the Alabama Business Privilege Tax Return, Corporate Shares Tax Return, and Annual Report (Form PSE). See instruction III below.

Organizations described under 26 U.S.C. Section 501(a) are exempt from filing and paying the Alabama Business Privilege and Corporate Shares Taxes.

The determination date for the tax is January 1, 2000. The taxpayer should use their December 31, 1999, year-end financial statements to calculate these taxes. A taxpayer may use fiscal year financial statements for the last fiscal year-end pre-

ceding January 1, provided such figures reasonably reflect the taxpayer's business activity in Alabama as of January 1.

The return must be signed, all applicable sections and schedules must be completed and all required attachments must accompany the return in order for the return to be considered complete. Incomplete returns received by the Department will not be considered as timely filed and will be subject to applicable penalties and interest.

Taxpayers will continue to incur a new tax liability each year on January 1 unless the taxpayer takes the appropriate steps to legally cease their existence in the State of Alabama. Contact the Secretary of State's office at (334) 242-5324 (www.sos.state.al.us), or the Judge of Probate's Office in the county in which the business was organized for instructions concerning these requirements.

Electronic funds transfers (EFT) are not available for business privilege and corporate shares tax.

II. Required Attachments

- Pages 1 through 4 of the unconsolidated federal tax return.
- A copy of the appropriate apportionment schedule.
- Schedule showing calculation of Federal taxable income in Alabama
- Documentation to validate all exclusions and deductions claimed.

NOTE: When information from a federal or state income tax return is required, do not attach the entire federal or state income tax return.

III. Extension Request (Form PSE)

Requirements for an extension to be granted:

- A payment of 90% of the taxes due or \$100, whichever is greater, must be made with the extension request. Corporations are also required to include the \$10 Secretary of State fee.
- The extension request must be mailed on or before March 15, 2000 for corporations and April 15 for limited liability entities.

- The extension request must be completed in its entirety.
- The extension request must be signed.

IV. Initial Returns

An initial return is the first return due after the taxpayer incorporates, registers, organizes, qualifies, or begins doing business in Alabama, whichever occurs first. The return is due 30 days after such occurrence. Schedule E (Initial Privilege Tax Calculation) is to be completed only by taxpayers that incorporated, registered, organized, qualified, or began doing business in Alabama AFTER January 1, 2000. For Corporations only, Schedule F is also required to be completed on all initial returns.

V. Penalties and Interest

Failure to timely file return – If a return is filed after the due date, there will be assessed a late filing penalty of 10% of the tax due or \$50, whichever is greater. This penalty applies separately to both the privilege tax and the corporate shares tax.

Failure to timely pay tax – If payment is not received by the due date, there will be assessed a late payment penalty of 1% per month, or fraction thereof, of the amount of the tax due, not to exceed 25% of the tax. This penalty applies separately to both the privilege tax and the corporate shares tax. Taxpayers paying 90% of the actual tax liability with a valid extension request will not be subject to this penalty.

Interest. Interest is due on all payments made after March 15, 2000. The interest rate is the same as provided in *Code of Alabama 1975*, Section 40-1-44.

If assistance is needed in computing the penalty and/or interest amounts call (334) 353-7923. The examiner that will assist you will need to know the tax liability and the date the return will be mailed.

VI. Prior Year Credits

Franchise Tax credits will not be allowed against the liabilities of the new Alabama Business Privilege or Corporate Shares Taxes. Franchise tax overpayments will be refunded.

VII. Instructions For Schedule A, Form PSA

Line 1

Enter the issued capital stock and additional paid in capital. This amount cannot be reduced by treasury stock. (*Code of Alabama 1975*, Section 40-14A-23(a)(1))

Line 2

Enter the amount of appropriated and unappropriated retained earnings, but not less than zero. This amount shall include the balance of any dividend payables on the taxpayer's year-end balance sheet. (Section 40-14A-23(a)(2))

Line 3

Subtract the sum of Schedule A, Lines 1 and 2 from the sum of Schedule C, Lines 11b and 11c and enter the total. Do not enter an amount less than zero. (Section 40-14A-23(e)(2)a)

Line 4

Add to net worth the sum of compensation or similar amounts paid or accrued to a direct or indirect shareholder owning more than 5% of the corporation the amount exceeding \$500,000. See *Code of Alabama 1975*, Section 40-14A-23(f)(1) a, b, and c at the Department's Web site for further information.

Line 5

Add to net worth the sum of compensation, distributions, or similar amounts paid or accrued to a direct or indirect shareholder owning more than 5% of the corporation the amount exceeding \$500,000. See *Code of Alabama 1975*, Section 40-14A-23(f)(2) a, b, and c at the Department's Web site for further information.

Line 6

Enter total net worth (add Lines 1 through 5). Go to Schedule B, Line 1.

Line 7

Enter the sum of the Partner's capital accounts from Form 1065 (U.S. Partnership Return of Income) Schedule L, Line 21. This number may not be less than zero. (Section 40-14A-23(b))

Line 8

Add to net worth the sum of compensation, distributions, or similar amounts paid or accrued to a direct or indirect partner or member the amount exceeding \$500,000. See *Code of Alabama 1975*, Section 40-14A-23(f)(3) a, b, and c at the Department's Web site for further information.

Line 9

Subtract the figure in Line 7 above from the amount shown on Schedule C, Lines 11b and 11c. This addition cannot be less than zero.

Line 10

Enter total net worth (add Lines 7 through 9). Go to Schedule B, Line 1.

Line 11

For business trusts classified as a corporation for federal income tax purposes, enter the assets minus the liabilities. Skip to Schedule B, Line 1. (Section 40-14A-23(d))

Line 12

If the owner of a disregarded entity is subject to the privilege tax, then the disregarded entity pays the minimum tax. Skip to Schedule B, Line 24. (Section 40-14A-23(c))

Line 13

For disregarded entities that have an owner that is not subject to the privilege tax (such as an individual or nontaxable partnership) enter the assets minus liabilities of the disregarded entity. (Section 40-14A-23(c))

Line 14

Subtract the figure in Line 13 above from the amount shown on Schedule C, Lines 11b and 11c. This addition cannot be less than zero.

Line 15

Add to net worth the sum of compensation, distributions, or similar amounts paid or accrued to a direct or indirect owner the amount exceeding \$500,000. See *Code of Alabama 1975*, Section 40-14A-23(f)(3) a, b, and c at the Department's Web site for further information.

VIII. Instructions For Schedule B, Form PSA

EXCLUSIONS (For each exclusion attach supporting documentation.)

Line 1

Enter net worth as computed in Schedule A, Line 6, 10, 11, or 16 depending on the type of entity.

If the amount of net worth is less than \$57,000, go to Line 24 and pay the minimum tax.

Line 2

Enter the book value of investments by the taxpayer in the equity of other taxpayers doing business in Alabama, unless the taxpayer is a dealer in securities. This figure should be itemized in Schedule D. (Section 40-14A-23)

Line 3

Financial institutions only may exclude from net worth determined in Schedule A their investment in the capital of any other corporation or LLE that: (1) does not pay a business privilege tax to Alabama, and (2) taxpayer owns more than 50% of the other corporation or LLE, unless the other corporation or LLE is dormant and not regularly engaged in one or more business activity. This figure should be itemized in Schedule D. (Section 40-14A-23)

Line 4

Enter from taxpayer's balance sheet,

the unamortized portion of goodwill and core deposit intangibles, which resulted from a direct purchase of an LLE or corporation.

Line 5

Exclude any unamortized balance, that the taxpayer properly elected, pursuant to Pronouncement 106 of the Financial Accounting Standards Board (FASB), to amortize over a period of years rather than immediately charging that amount to earnings.

Line 6

For financial institutions only, enter the net worth as adjusted exceeding 6% of the taxpayers total assets. Net worth as adjusted is calculated by subtracting from Schedule A, Line 6 the sum of (Lines 2-5) from Schedule B.

Line 9

The apportionment factor is computed in the same manner as prescribed for apportioning income during the determination period for income tax purposes in accordance with Chapter 18 of Title 40, or in the case of financial institutions according to Chapter 16 of Title 40. Insurance Company apportionment is on the basis of the ratio of the insurer's Alabama premium income to its nationwide total direct premium as filed on Schedule T with the Insurance Commissioner, State of Alabama. (Section 40-14A-24.)

DEDUCTIONS (For each deduction attach supporting documentation.) (Section 40-14A-24(c))

Nothing in this section shall be construed to allow any item to be deducted more than once or to allow a deduction for any item that is excluded from net worth. Items can only be deducted to the extent they were included in net worth in Schedule A.

Line 11

Enter net amount invested in bonds or other securities issued by state of Alabama or any political subdivision of the state prior to January 1, 2000. This deduction does not apply if the taxpayer is a dealer in securities subject to rules of 26 U.S.C. 1236. (Section 40-14A-24)

Line 12

Deduct the net investment for equipment used to control, reduce or eliminate air, ground, or water pollution in Alabama where such pollution or radiology hazards result or would be caused by the taxpayer's activities in Alabama.

Line 13

Deduct the net investment in equipment of an airline hub operation within this state. (Section 40-14A-24)

Line 14

Enter book value invested after December 1, 1997 in regard to new and

existing manufacturing facilities and investments made in equipment, real & tangible property, facilities, structures, components and inventory which correlates to number of new employees. (Section 40-14A-24(b)(4))

Line 15

Enter book value of investment relating to aluminum manufacturing facility. (Section 40-14A-24(b)(5))

Line 16

Provide documentation of government entity requirement and state purpose of the amount of reserve or trust. (Section 40-14A-24)

Line 17

Enter book value of any residential real estate project in Alabama that qualifies for federal or state income tax credits, loans, or grants on the grounds that it provides housing for low-income individuals.

Line 18

Enter 30% of Alabama S Corporation's taxable income.

Line 20

Taxable net worth is derived by subtracting Line 19 from Line 10.

Line 21

Determine the tax rate from the Tax Rate Schedule, page 3. Use the federal taxable income before net operating loss deduction and special deductions multiplied by the apportionment factor from Schedule B, Line 9.

Line 22

Privilege tax is calculated by multiplying Line 20 by Line 21.

Line 23

Enter Alabama Enterprise Zone Credit. Attach supporting documentation from the Alabama Department of Economic & Community Affairs (ADECA).

IX. Instructions For Schedule C, Form PSA

RELATED PARTY DEBT

A related party is any member of a controlled group of corporations as defined in 26 U.S.C. Section 1563, or a limited liability entity that would be a member of a controlled group if rules similar to those of 26 U.S.C. Section 1563 were applied to limited liability entities.

Individual shareholders are NOT considered related parties.

List all instances of related party debt including the entities' FEIN and complete name. If additional space is needed, attach a list of the remaining entities. Make sure Lines 11a, 11b, and 11c contain the appropriate total for all related party debt. The "If doing business in Alabama" and "If not doing business in Alabama" headings refer to the related party to which the taxpayer is indebted.

Related party debt cannot be negative.

Related party debt and related party receivables are not netted under any circumstances.

Exempt payables are defined as stated in Section 40-14A-23(e)(2)b. They include trade debt, accounts payable, or deposit liabilities to related parties that are doing business in Alabama.

Non-Exempt Payables are all other related party debts.

X. Instructions For Schedule D, Form PSA

Investment in other corporations and limited liability entities

List investments in entities actively engaged in doing business in Alabama. Merely being registered or qualified to do business in Alabama does not constitute doing business in Alabama. Include the amount of each investment, the FEIN of each entity, and the name of each entity. This exclusion does not apply if the taxpayer is a dealer in securities subject to 26 U.S.C. Section 1236.

For Financial Institutions Only

Financial institutions can exclude investments in other corporations or limited liability entities that are not doing business in Alabama, if the taxpayer owns more than 50% of the outstanding capital stock of the other corporation or more than 50% of the capital and profits interest of the limited liability entity, unless the other corporation or limited liability entity is dormant and not regularly engaged in one or more business activities. Include the FEIN of each entity, the name of each entity, the amount of investment in each entity, and the percent of ownership of each entity. This exclusion does not apply if the taxpayer is a dealer in securities subject to 26 U.S.C. (Section 1236).

Determination of the Apportionment Factors for the Privilege and Shares Taxes

For tax years beginning after December 31, 1999, taxpayers engaged in multi-state operations will determine the apportionment factor used to compute Alabama net worth as follows:

(a) C Corporations, S Corporations, Partnerships, Limited Liability Companies, Real Estate Investment Trusts, and Disregarded Entities shall apportion net worth computed under Section 40-14A-23 and Section 40-14A-34 in accordance with Section 40-27-1, *Code of Alabama 1975*, and the accompanying rules. During the determination period, the factors used to determine Alabama net worth shall be computed in the same manner as prescribed for purposes of the income tax levied by Chapter 18, Title 40, *Code of*

Alabama 1975.

(b) Financial Institutions shall apportion net worth computed under Section 40-14A-23 in accordance with Chapter 16, Title 40, *Code of Alabama 1975*. During the determination period, the factors used to determine Alabama net worth shall be computed in the same manner as prescribed for purposes of the Financial Institution Excise Tax.

(c) Insurance companies subject to the Insurance Premium Tax levied by Chapter 4A of Title 27, *Code of Alabama 1975*, shall apportion income based on the ratio of the insurer's Alabama premium income to its nationwide total direct premiums. The information used to determine this ratio is reflected on Schedule T of the insurer's annual statement filed with the insurance commissioner for the immediate preceding tax year.

XI. Instructions For Schedule E, Form PSA

Initial Privilege Tax Calculation

Line 4

The apportionment factor for the initial return is calculated by dividing the amount of tangible property in Alabama by the total tangible property on the day the tax liability is incurred.

Line 10

Create a ratio by dividing the number of days remaining in the calendar year by 365.

Example: A corporation incorporates on June 15, 2000 which is the 167th day of the year.

Ratio = $198/365 = 54.2465\%$

Line 11

The minimum tax is \$100 and the maximums are listed in the Tax Rate Schedule on page 3 of Form PSA.

XII. Instructions For Schedule F, Form PSA

Shares Tax Applies To Corporations Only.

Line 1

Enter the issued capital stock and additional paid in capital. This amount cannot be reduced by treasury stock.

Line 2

Enter the total amount of retained earnings (appropriated and unappropriated), which cannot be less than zero. This amount shall include the balance of any dividend payables on the taxpayers year-end balance sheet.

EXCLUSIONS (For each exclusion attach supporting documentation.) Nothing in this section shall be construed to allow any item to be deducted more than once or to allow a deduction for any item

that is excluded from net worth. Items can only be deducted if they were included in net worth in Line 3 and only to the extent they were included in Line 3. (Section 40-14A-33(b)(7))

Line 4

Enter the book value of goods, wares and merchandise (inventory) held for sale. (Section 40-14A-33(1))

Line 5

Enter the book value of investments by the taxpayer in the equity of other corporations doing business in Alabama, unless the taxpayer is a dealer in securities.

Line 6

Investment in federal obligations

(A) *Federal obligations NOT held for tax avoidance purposes:*

Divide total net worth from line 3 Schedule F by the sum of total net worth from line 3 Schedule F plus long term debt. Multiply year end federal obligations by this percentage to determine the amount to be excluded.

(B) *Federal obligations held for tax avoidance purposes:*

Divide average federal obligations owned by average total assets. Multiply the amount of the calculation obtained in paragraph (A) above by this percentage to determine the amount to be excluded. (Both average federal obligations and average total assets are to be determined on a monthly basis.)

Line 7

Exclude any unamortized balance, that the taxpayer properly elected, pursuant to Pronouncement 106 of the Financial Accounting Standards Board (FASB), to amortize over a period of years rather than immediately charging that amount to earnings.

Line 8

In the case of an Alabama S corporation, 30 percent of the corporation's taxable income, or, if greater, the amount that would have been the corporation's income tax liability if it were subject to income tax, computed according to the same method used to determine the amounts required to be included in the shareholders' incomes and in accordance with generally accepted accounting principles.

Line 9

For corporations only, the net amount of Industrial Development Board assets not to exceed \$200,000 may be deducted if they are included in the taxpayer's balance sheet and were acquired prior to May 21, 1992. The corporation shall provide a detailed list of the assets and liabilities.

Line 12

Same as Schedule B, Line 9 unless this is the corporation's initial return; if so, use the factor from Schedule E, Line 4.

DEDUCTIONS (For each deduction attach supporting documentation.) (Section 40-14A-34(c))

Nothing in this subsection shall be construed to allow any item to be deducted more than once or to allow a deduction for any item that is excluded from net worth. Items can only be deducted if they were included in net worth in Line 3 and only to the extent they were included in Line 3.

Line 14

Deduct net investment for equipment used to control, reduce or eliminate air, ground, or water pollution where such pollution or radiology hazards result or would be caused by taxpayer's activities in Alabama.

Line 15

Enter taxpayer's net amount invested in bonds or other securities issued by state of Alabama or any political subdivision of the state prior to January 1, 2000. This does not apply if the taxpayer is a dealer in securities subject to rules of 26 U.S.C. 1236. (Section 40-14A-34)

Line 16

Provide documentation of government entity requirement and state purpose of the amount of reserve or trust. (Section 40-14A-34)

Line 17

Enter book value of amount invested after December 1, 1997, in regard to new and existing manufacturer and investments made in equipment, real & tangible property, facilities, structures, components and inventory which correlates to number of new employees. (Section 40-14A-34(b)(4))

Line 18

Enter book value of investment relating

to aluminum manufacturing facility. (Section 40-14A-34(b)(5))

Line 19

Deduct the market value, or current use value if applicable, of the real property as last determined by the county assessing official or the book value of the real property on which the taxpayer is subject to the tax levied by Chapter 8 of Title 40 (Ad Valorem Tax). Deduct the book value of personal property, including motor vehicles, subject to the tax levied by Chapter 8 of Title 40. The property must be located in Alabama on January 1 to qualify for this deduction.

Determine the market value or current use value of the real property by using the Real Property Valuation notices issued by the county assessing official(s). Attach a statement using the following format:

Real Property	\$ _____
Personal Property	
(Including motor vehicles)	\$ _____
TOTAL	\$ _____

NO OTHER ATTACHMENTS ARE NECESSARY TO SUPPORT THIS DEDUCTION.

Line 24

For initial filers only (Line 22 minus Line 23 multiplied by the percentage shown on Schedule E, Line 10). For all other taxpayers Line 22 minus Line 23.

XIII. Privilege tax treatment for an Electing Family Limited Liability Entity.

Electing family limited liability entities must meet the following requirements:

- (1) It must be a limited liability entity,
- (2) 80 percent or more of the profits and capital interests are directly or constructively owned by an individual and the members of the individual's family as defined in Section 40-14A-1(h)(4).
- (3) Must meet the requirements of either the gross receipts test as defined Section 40-14A-1(h)(3)(a) or the assets test as defined in Section 40-14A-1(h)(3)(b).
- (4) Must attach a statement to the return or extension request making the annual election and declaring all of the requirements have been met.